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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,716	11/26/2003	Prathyusha K. Salla	132958XX-B/YOD GEMS.0262	9778
68174	7590	04/16/2008	EXAMINER	
GE HEALTHCARE c/o FLETCHER YODER, PC P.O. BOX 692289 HOUSTON, TX 77269-2289				
			ART UNIT	PAPER NUMBER
			3768	
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			04/16/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/723,716	Applicant(s) SALLA ET AL.
Examiner ELLSWORTH WEATHERBY	Art Unit 3768

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 December 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Brian L Casler/
Supervisory Patent Examiner, Art Unit 3737

Continuation of 11, does NOT place the application in condition for allowance because: Regarding Applicant's allegation that the Pflaum reference is missing features recited by Independent claims 1 & 15, The Examiner stands the Pflaum reference teaches acquiring a set of motion data for two or more organs. This was addressed in the response to arguments in Final Rejection dated 10/18/2007. The Examiner stands that in triggering image pickup by sensing heart motion which causes vessel motion, Pflaum is inherently acquiring motion data for two organs. Applicant alleges that the abstract is deficient, but it is the Examiner's stance that a beating heart will cause the vessels to pulse. Therein, the Examiner interprets Pflaum as acquiring a set of motion data FOR two or more organs. For example, it is possible to use EKG sensors to acquire the motion data for two organs because the RR interval corresponds to both the heart's rate and the vessel's pulse rate. This same principle applies to Applicant's arguments with regard to the rejections of claims 25, 37, 38. The Examiner acknowledges the grammatical error in the 10/18/2007 response to arguments. However, this error was not implied in the original rejection nor the subsequent rejection of the claims. To clarify that 10/18/2007 response to arguments, The Examiner had intended to make clear that he would not limit "means for acquiring a set of motion data of for or more organs from at least one or more types of electrical sensors or one or more types of non-electrical sensors" to anything but the broadest reasonable interpretation. In this regard, the heart and the vessels make up two unique organs in the cardiovascular system. Here, the examiner defines the vessels and the heart as separate organs because these organs each have unique and specialized structures, arising from unique and specialized cells, and that this enable each performs a unique and specialized function. Regarding Applicant's arguments that Liu does not teach at least two of one or more types of electrical sensors the Examiner notes that the disclosed electrocardiograms provide the limitations for at least two of one or more types of electrical sensors because in acquiring the EKG or ECG a series of electrodes or leads are required to provide the spatial direction of the heart's electrical activity. Therefore, in providing an ECG or EKG both Pflaum and Liu satisfy claim's limitations including "at least two of one or more types of electrical sensors". To clarify, an EKG or ECG requires at least two of one (or more) type of electrical sensor to produce the heart's depolarization vector. Regarding Liu in view of Ustener, Ustener is called upon to activate a separate measurement for a separate physiological parameter to contribute to the set of motion data describing the motion of two or more organs within the region of interest.